

Decision **PROPOSED DECISION OF ALJ DeANGELIS (Mailed 1/18/2019)****BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

In the Matter of the Application of  
Southern California Edison Company  
(U338E) for Approval of the  
Results of its 2013 Local Capacity  
Requirements Request for Offers for the  
Moorpark Sub-Area.

Application 14-11-016

**DECISION DENYING INTERVENOR COMPENSATION CLAIM OF CENTRAL  
COAST ALLIANCE UNITED FOR A SUSTAINABLE ECONOMY**

<b>Intervenor:</b> Central Coast Alliance United for a Sustainable Economy	<b>For contribution to</b> 3/27/18 dismissal of Court of Appeal case no. A150192.
<b>Claimed:</b> \$ 47,447.75	<b>Awarded:</b> \$ 0
<b>Assigned Commissioner:</b> Michael Picker	<b>Assigned ALJ:</b> Regina M. DeAngelis

**PART I: PROCEDURAL ISSUES**  
(Completed by Intervenor except where indicated)

<b>A. Brief description of Decision:</b>	D.16-12-030 modified Decision (D.16-05-050), which approved 12 MW of preferred resources and a 20-year power purchase contract with NRG Energy Center Oxnard LLC (“NRG”) for the Puente Project, a 262 MW natural gas-fired peaker facility. The California Court of Appeal granted review of D.16-05-050, as modified by D.16-12-030, and requested supplemental briefing. Having secured the outcome it sought – a new SCE procurement plan and procurement process that sought renewable resources with a preference for Disadvantaged Communities and actively refused to seek gas-fired resources for those communities, Central Coast Alliance United for a Sustainable Economy (CAUSE) worked with the parties to secure dismissal of the appeal.
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**B. Intervenor must satisfy intervenor compensation requirements set forth in Pub. Util. Code §§ 1801-1812<sup>1</sup>:**

	<b>Intervenor</b>	<b>CPUC Verification</b>
<b>Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):</b>		
1. Date of Prehearing Conference:	January 28, 2015.	Verified.
2. Other specified date for NOI:	Supplemental NOI filed within 30 days of filing of January 4, 2017 petition for review.	Verified. Supplemental NOI was filed on Feb. 2, 2017
3. Date NOI filed:	February 27, 2015. CEJA/CAUSE filed their Supplemental NOI February 2, 2017.	Verified. Supplemental NOI was filed on Feb. 2, 2017
4. Was the NOI timely filed?		Yes.

<sup>1</sup> All statutory references are to California Public Utilities Code unless indicated otherwise.

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<b>Showing of eligible customer status (§ 1802(b)):</b>		
5. Based on ALJ ruling issued in proceeding number:	A.14-11-016	Yes
6. Date of ALJ ruling:	3/24/15	Verified
7. Based on another CPUC determination (specify):	N/A	
8. Has the Intervenor demonstrated customer status?		Yes
<b>Showing of “significant financial hardship” (§1802(h) or §1803.1(b)):</b>		
9. Based on ALJ ruling issued in proceeding number:	A.14-11-016	Yes
10. Date of ALJ ruling:	3/24/15	Verified
11. Based on another CPUC determination	N/A	
12. Has the Intervenor demonstrated significant financial hardship?		Yes
<b>Timely request for compensation (§ 1804(c)):</b>		
13. Identify Final Decision:	3/27/18 dismissal of Court of Appeal case no. A150192.	Verified
14. Date of issuance of Final Order or Decision:	3/27/18	Verified
15. File date of compensation request:	5/29/18	Verified
16. Was the request for compensation timely ?		Yes

**C. Additional Comments on Part I:**

#	Intervenor's Comment(s)	CPUC Discussion
6	Pursuant to the Administrative Law Judge's Ruling of March 24, 2015 on CAUSE's NOI, CAUSE now clarifies that 100% of its members are residential ratepayers.	Noted
10	<p>The Administrative Law Judge's Ruling of March 24, 2015 on CAUSE's NOI ordered CAUSE to indicate in its Claim whether CAUSE has any committed grant funds for its participation in this proceeding.</p> <p>CAUSE does not have any committed grant funds for its participation in either the PUC proceeding or the litigation that grew out of it.</p>	Noted.
15	<p>The CPUC was closed from Saturday 5/26/18, the 60<sup>th</sup> day after the 3/27/18 dismissal of the case, through Monday 5/28/18. "If a writ for review of a reheard decision is subsequently filed with the Courts, the Claim may be filed within 60 days of the issuance of the Courts' decision or the CPUC's decision closing the proceeding. (See § 1804(c) and Rules 17.3, and 17.4).</p> <p>Holiday Rule: If the 60th day falls on a day that the CPUC is closed, the filing is due on the next business day. (See Rule 1.15)." Intervenor Compensation Program Guide, p. 18.</p>	Noted.

**PART II: SUBSTANTIAL CONTRIBUTION**  
**(Completed by Intervenor except where indicated)**

**A. Did the Intervenor substantially contribute to the final decision (see § 1802(j), § 1803(a), 1803.1(a) and D.98-04-059):**

Intervenor's Claimed Contribution(s)	Specific References to Intervenor's Claimed Contribution(s)	CPUC Discussion
<p>CAUSE secured the final result it sought – an SCE Moorpark procurement process that included the statutory mandates of section 399.13(a)(7) and disfavor of gas in environmental justice communities. CAUSE secured the new Moorpark procurement during the course of and in part due to the petition for review. Once it became apparent CAUSE could secure the relief sought without the need for a final Court of Appeal decision, it approached the Commission and SCE regarding first staying the case, and finally jointly moving to dismiss.</p> <p>California law provides for recovery of attorney fees when a case acts as a catalyst for the change a plaintiff seeks. For example, the California Supreme Court held a “successful party” is one that achieves its litigation objectives, not merely a party that secures a final court order mandating those objectives. What CAUSE sought, and what it secured, was a specific action by SCE. This is precisely</p>	<p>- Applicability of section 399.13(a)(7) and disfavor of gas-fired resources in environmental justice communities (Moorpark Sub-Area Local Capacity Requirements Procurement Plan of Southern California Edison Company Submitted to Energy Division Pursuant to D. 13-02-015. (“Procurement Plan”));</p> <p>- applicability of section 399.13(a)(7) (Procurement Plan pp. 6, 8, 17, 38, 39);</p> <p>- applicability of disfavor of gas in environmental justice communities. (Procurement Plan pp. 8, 17, 38.)</p> <p>- See Cal. Code Civ. Proc. 1021.5; <i>Graham v. Daimler Chrysler Corp.</i> (2005) 34 Cal.4th 553, 560.</p>	<p>See CPUC Discussion in Part II below.</p>

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<p>what the Supreme Court contemplated: “...At the end of the rainbow lies not a judgment, but some action (or cessation of action) ...” The litigation need not be the sole cause of the change, or the “but for” cause; it need only be one of the causes.</p> <p>Similarly, under Commission rules, petitioners are entitled to intervenor compensation when they make a substantial contribution to a “hearing or proceeding.” The final decision to which CAUSE contributed is the Court of Appeal’s grant of review, then voluntary dismissal of the petition for review. This decision occurred because of, and reflects, the work CAUSE invested in ensuring that SCE implement the rules and law governing procurement, to the benefit of the Moorpark subarea and the public at large.</p>	<p>- <i>Graham</i> 34 Cal.4th at 571.</p> <p>- <i>Id.</i> at 571 (internal citations omitted).</p> <p>- Pub. Util. Code § 1804.</p>	
<p>Issue 1 – Court of Appeal sought briefing regarding the basis for the Commission’s conclusion that section 399.13 did not apply.</p>	<p>- “1. Did the Commission in fact determine below that Public Utilities Code section 399.13 (section 399.13) does not apply to a utility’s conduct of an all-source request for offers, or did it misunderstand the argument presented to it and merely determine that the statute does not apply to its own review of contracts, like the Puente contract, that do not cover renewable energy resources?” (Order Granting Review, p. 2.)</p> <p>- Petitioners argued that, in D.15-05-050 (as modified by D.16-12-030) the Commission approved the procurement process, including solicitation and procurement, in addition to the</p>	<p>See CPUC Discussion in Part II below.</p>

	<p>contracts that resulted from the solicitation and procurement. In so doing, the Commission explicitly concluded that the “the plain language of the statute” did not apply to all-source procurement. (Petition for Writ of Review, pp. 47-56; Petitioners’ Reply, pp. 14-18, 43-45.)</p> <p>- Petitioners argued the Commission had a duty to review SCE procurement to affirm compliance with section 399.13. “The Commission not only failed to require SCE to conduct its solicitation and procurement in accordance with all applicable laws and rules, but in so doing, failed to comply with its own duty to abide by statutory and decisional law.” (Petitioners’ Reply, p. 66.)</p> <p>- Petitioners argued the Commission did not make a legal interpretation of section 399.13 that would be subject to deference. (Petitioners’ Reply, pp. 18-40.)</p>	
<p>Issue 2 – Court of Appeal sought briefing regarding whether analysis of SCE’s compliance with section 399.13 could have been forfeited, and whether the Commission had concluded petitioners had, in fact, forfeited the argument.</p>	<p>- “2. Did the Commission’s discussion of the lack of objection to the Energy Division’s approval of the procurement plan of ...SCE amount to a rejection on forfeiture grounds of the argument that SCE failed to comply with section 399.13? Could that argument properly be rejected on forfeiture grounds?” (Order Granting Review, p. 2.)</p> <p>- The briefing discussed forfeiture in terms of whether Commission’s failure to require SCE to implement 399.13 could be waived. “Of course, no procurement plan authorized by the Commission can trump a legislative requirement over which the Commission has no discretion to apply or waive. Further, Real Parties fail to cite any RPS decision discussing, let alone excluding any procurement from, the 399.13(a)(7) mandate.” (Petitioners’ Reply, p. 41.)</p> <p>- “Respondent seeks to reframe the issue by asserting that ‘[t]he issue is whether a</p>	<p>See CPUC Discussion in Part II below.</p>

	<p>solicitation, on whole, adequately solicited preferred resources.’ (PUC Answer at 22.) But ...the solicitation cannot be deemed adequate if [it] failed to comply with a legal mandate. Nothing in section 399.13(a)(7) suggests that the preferential treatment mandate can be waived as long as SCE on the ‘whole’ solicited renewables ‘adequately,’ or because it complied with other requirements.” (Petitioners’ Reply, pp. 44-45.)</p>	
<p>Issue 3 – Standing and procedural review</p>	<ul style="list-style-type: none"> <li>- Petitioners argued that CAUSE fully participated in the proceeding both in its own right and through its umbrella organization CEJA, and therefor had standing to seek and participate in appellate review. (Petitioners’ Reply, pp. 63-66; Petition for Review, p. 20.)</li> <li>- The Court of Appeal rejected CAUSE’s claim to standing, but granted it the right to participate in the appeal. “The petition for writ of review is granted with respect to Sierra Club and denied with respect to ...CAUSE....CAUSE is not precluded from continuing to participate in this matter because ‘each party to the action or proceeding before the [Public Utilities Commission] may appear in the review proceeding.’” (Order Granting Review, p.1.)</li> <li>- The Court of Appeal concluded the record submitted was complete, and no oral argument was necessary. (Order Granting Review, pp. 1-2.)</li> </ul>	<p>The claim does not demonstrate that the Court of Appeal’s rejection of CAUSE’s standing contributed to a formal proceeding before the Commission and the Commission order, ruling or decisions. (See Sections 1801.3(d), 1802(j)) or Rule 17.4(a). of the Commission Rules of Practice and Procedure.</p>



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**B. Duplication of Effort (§ 1801.3(f) and § 1802.5):**

	<b>Intervenor's Assertion</b>	<b>CPUC Discussion</b>
<b>a. Was the Public Advocate's Office at the California Public Utilities Commission (Cal Advocates) a party to the proceeding?<sup>2</sup></b>	No.	Verified. Cal Advocates did not participate in A150192 in the Court of Appeal
<b>b. Were there other parties to the proceeding with positions similar to yours?</b>	Yes.	Verified.
<b>c. If so, provide name of other parties:</b> Sierra Club filed a petition for rehearing with CEJA and a petition for review with CAUSE.		Verified.
<b>d. Intervenor's claim of non-duplication:</b> CAUSE partnered very closely with Sierra Club on the petition for review. As evidenced by CAUSE's timesheets, its attorneys actively coordinated with Sierra Club to divide drafting and revision, as well as research and procedural matters. CAUSE attorneys conducted the majority of the drafting and revision, while Sierra Club provided feedback and litigation assistance.		N/A

<sup>2</sup> The Office of Ratepayer Advocates (ORA) was renamed the Public Advocate's Office at the California Public Utilities Commission (Cal Advocates), pursuant to Senate Bill No. 854, which the Governor approved on June 27, 2018.

**C. Additional Comments on Part II:**

#	Commission Discussion
Part II	<p><b>1. Legal Framework for Determining Substantial Contribution</b></p> <p>Intervenor compensation “means payment for all or part, as determined by the commission, of ... reasonable costs of preparation for and participation in a proceeding, and includes the fees and costs of obtaining an award under this article and of obtaining judicial review, if any.” (Section 1802(a).)</p> <p>““Proceeding”” means an application, complaint, or investigation, rulemaking, alternative dispute resolution procedure in lieu of formal proceedings as may be sponsored or endorsed by the commission, or other formal proceeding before the commission.” (Section 1802(g).)</p> <p>According to Section 1801.3, the statutory provisions on the Intervenor Compensation Program “shall apply to all formal proceedings of the commission involving electrical, gas, water, and telephone utilities.” Section 1801.3(d) states the legislative intent that “Intervenors be compensated for making a substantial contribution to proceedings of the commission, as determined by the commission in its orders and decisions, regardless of whether a settlement agreement is reached.” Section 1802(j) explains:</p> <p style="padding-left: 40px;">“Substantial contribution” means that... the customer’s presentation has substantially assisted the commission in the making of its order or decision because the order or decision had adopted in whole or in part one or more factual contentions, legal contentions, or specific policy or procedural recommendations presented by the customer.</p> <p>Section 1804(c) requires that</p> <p style="padding-left: 40px;">The request [for intervenor compensation] shall include ... a description of the customer’s ... substantial contribution to the hearing or proceeding.</p> <p><b>2. Facts Precluding a Finding of Substantial Contribution</b></p> <p>CAUSE claims that it contributed to the new Moorpark procurement during the course of and in part due to the petition for review. However, the “Procurement Plan” attached to Intervenor’s claim was submitted to the Energy Division, but has not been filed in a formal proceeding before the Commission, and therefore has not been under examination in any such proceeding.</p>

	<p>The claim asserts that CAUSE contributed to the Court of Appeal’s granting of the petition for writ of review of November 28, 2017, attached to the claim. The Court’s grant of the petition, however, does not make any findings that would address the issues raised by the petition or the Commission proceeding A.14-11-016, and has no effect, at least, now, on any proceeding before the Commission. In granting the petition, the Court requested supplemental briefing and then dismissed the case in response to the petitioners’ request for dismissal.</p> <p>We note that D.05-02-003 declined to compensate Sierra Club’s work on the judicial review of Commission decisions. The Commission indicated that, among other things, the intervenor’s petition for writ of review was “unrelated to and unnecessary for a substantial contribution to a Commission decision” and noted the “lack of the necessary connection between substantial contribution to the Commission proceeding and costs incurred in seeking judicial review.”<sup>3</sup> Although under different circumstances, CAUSE’s petition for writ of review was also “unnecessary for a substantial contribution” to a Commission proceeding and order or decision, and there is a lack of “necessary connection” between CAUSE’s costs incurred in seeking judicial review and a proceeding before the Commission.</p> <p>More recently, in the case of New Cingular Wireless, PCS, LLC vs. CPUC, the Court of Appeal vacated the Commission’s award of intervenor compensation. The Court held that the Commission framed its intervenor compensation decision “in terms so broad as to suggest that compensation was due simply as an ‘acknowledgement’ of participation” in the proceeding, “without any consideration given to the statutory requisites for awarding compensation.”<sup>4</sup> The Court urged the Commission to “anchor its rationale in its own factual findings and show how those findings fit into the statutory language.”<sup>5</sup> The Court states:</p> <p style="text-align: center;">As we construe Article 5, so long as the advocacy of an intevenor claiming compensation contributes to a CPUC proceeding by “assist[ing] the commission in</p>
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<sup>3</sup> D.05-02-003, 2005 Cal. PUC LEXIS 72, \*23.

<sup>4</sup> 2016 Cal. App. LEXIS 298, \*71

<sup>5</sup> 2016 Cal. App. LEXIS 298, \*73.

	<p>the making of” any “order or decision” (§1802, subd. (i)) and that “order or decision” is part of the “final” resolution of the proceeding (§1804, subds. (c) and (e)) – whether or not the proceeding is resolved on the merits – then the CPUC may “determine[]” whether in its “judgment” (§§1801.3, subd. (d), 1802, subd. (i)), the intervenor’s contribution was “substantial” enough to merit an award of compensation (§ 1803, subd. (a)).<sup>6</sup></p> <p>In this case, there is no factual record for us to determine whether a contribution was made. We acknowledge CAUSE’s effort at the Court of Appeal, as well as the fact that when circumstances underlying the appeal changed, CAUSE made a decision to discontinue the appeal proceeding. However, based on the facts at hand, we are unable to make a judgment on whether CAUSE substantially assisted the commission in the making of its order or decision and thus contributed to a proceeding and order or decision (Section 1802(j)). Therefore, the claim of CAUSE is rejected.</p>
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**PART III: REASONABLENESS OF REQUESTED COMPENSATION**  
(Completed by Intervenor except where indicated)

**A. General Claim of Reasonableness (§ 1801 and § 1806):**

	<b>CPUC Discussion</b>
<p><b>a. Intervenor’s claim of cost reasonableness:</b></p> <p>CAUSE has significantly reduced the hours it is seeking, both to eliminate any risk of duplication (as described below) and to reflect the fact that it does not have a final Court of Appeal decision detailing the contributions made by CAUSE. While CAUSE is seeking compensation for appellate work at the reasonable market rates for its attorneys, those rates are benchmarked by a 2008 fee decision, setting \$650/hr for an attorney of 18 years experience, which is the rate sought for Shana Lazerow, who was admitted to the bar in 1998, and \$600/hr for an attorney of 14 years experience, which is the rate sought for Gladys Limon, who was admitted to the bar in 2003. As explained in CAUSE’s supplemental Notice of Intent, and supported by declarations of two established attorney practitioners, the rates of \$650 for Ms. Lazerow and \$600 for Ms. Limon are extremely reasonable.</p>	<p>Based on the CPUC discussion on substantial contribution in Part II, above, the reasonableness of the requested costs issue is moot.</p>
<p><b>b. Reasonableness of hours claimed:</b></p> <p>The attorneys have significantly reduced the hours they are seeking, to eliminate any risk of duplication. When two attorneys met or teleconferred, only one attorney’s time is sought. When one attorney drafted and another</p>	<p>Based on the CPUC discussion on substantial</p>

<sup>6</sup> 2016 Cal. App. LEXIS 298, \*72.

<p>revised the same section of a document, only one attorney's time is sought.</p> <p>The attorneys also deleted time for categories of tasks that did not, on their face, contribute to the Court of Appeal's grant of review. For example, the petition for review spent significant time exploring the implications of race and the California-wide prohibition on discriminatory actions. None of this time was included for intervenor compensation. Further, no time is included for research and drafting for the Court of Appeal regarding amendments to code section 454.5. Most significantly, although it may have been a basis on which the Court of Appeal granted review, no time is sought for briefing applicability of D.07-12-052 for the Court of Appeal. Finally, although SCE's procurement plan is the document that embodies the significant contribution and ultimate efficacy of advocacy, all time spent reviewing and submitting comments regarding the 2018 SCE Moorpark Procurement Plan has been omitted. This resulted in deletion of more than 60 hours of appellate time necessarily spent by Gladys Limon (for whom this request seeks 24.9 hours) and more than 90 hours of appellate time necessarily spent by Shana Lazerow (for whom this request seeks 47.7 hours.)</p>	<p>contribution in Part II, above, the reasonableness of the hour issue is moot.</p>
<p><b>c. Allocation of hours by issue:</b></p> <p><b>Issue 1 – Court of Appeal sought briefing regarding the basis for the Commission's conclusion that section 399.13 did not apply. – 47%</b></p> <p><b>Issue 2 – Court of Appeal sought briefing regarding whether analysis of SCE's compliance with section 399.13 could have been forfeited, and whether the Commission had concluded petitioners had, in fact, forfeited the argument. – 13%</b></p> <p><b>Issue 3 – Standing and procedural review – 6%</b></p> <p><b>Issue 4 – General participation, including coordination with allies, in appellate court - 34%</b></p>	<p>Based on the CPUC discussion on substantial contribution in Part II(C), above, the reasonableness of the allocation of hours is moot.</p>

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**B. Specific Claim:\***

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate \$	Total \$
Shana Lazerow (appellate)	2016	20.4	\$650	Environmental Law Foundation v. Laidlaw, San Francisco Super. Case No. CGC-06-451832 (2008) (“ELF”) awarded \$650 for 18 yr practitioner	\$13,260	0	0	0
Shana Lazerow (appellate)	2017	22	\$650	ELF	\$14,300	0	0	0
Shana Lazerow (appellate)	2018	3.2	\$650	ELF	\$2,080	0	0	0
Gladys Limon (appellate)	2016	8.9	\$600	ELF awarded \$600 for 14 yr practitioner	\$5,340	0	0	0
Gladys Limon (appellate)	2017	16.7	\$600	ELF	\$10,020	0	0	0
Subtotal: \$ 46,365						Subtotal: \$ 0		
OTHER FEES								
Describe here what OTHER HOURLY FEES you are Claiming (paralegal, travel **, etc.):								
Item	Year	Hours	Rate \$	Basis for	Total \$	Hours	Rate	Total \$

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				<b>Rate*</b>							
[Person 1]											
[Person 2]											
<b>Subtotal: \$</b>						<b>Subtotal: \$</b>					
<b>INTERVENOR COMPENSATION CLAIM PREPARATION **</b>											
<b>Item</b>	<b>Year</b>	<b>Hours</b>	<b>Rate \$</b>	<b>Basis for Rate*</b>	<b>Total \$</b>	<b>Hours</b>	<b>Rate</b>	<b>Total \$</b>			
Shana Lazerow	2017	6.1	\$177.5	D.18-03-028 set 2017 Lazerow rate of \$355 – divide by 2 for icomp	\$1,082.75	0	0	0			
<b>Subtotal: \$ 1,082.75</b>						<b>Subtotal: \$ 0</b>					
<b>COSTS</b>											
<b>#</b>	<b>Item</b>	<b>Detail</b>			<b>Amount</b>	<b>Amount</b>					
1.											
2.											
<b>Subtotal:</b>						<b>Subtotal: \$</b>					
<b>TOTAL REQUEST: \$47,447.75</b>						<b>TOTAL AWARD: \$ 0</b>					
<p>*We remind all intervenors that Commission staff may audit the records and books of the intervenors to the extent necessary to verify the basis for the award (§1804(d)). Intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. Intervenor's records should identify specific issues for which it seeks compensation, the actual time spent by each employee or consultant, the applicable hourly rates, fees paid to consultants and any other costs for which compensation was claimed. The records pertaining to an award of compensation shall be retained for at least three years from the date of the final decision making the award.</p> <p>**Travel and Reasonable Claim preparation time are typically compensated at ½ of preparer's normal hourly rate</p>											

ATTORNEY INFORMATION			
Attorney	Date Admitted to CA BAR <sup>7</sup>	Member Number	Actions Affecting Eligibility (Yes/No?) If "Yes", attach explanation
Shana Lazerow	1998	195491	No.
Gladys Limon	2003	228773	No.

**C. Attachments Documenting Specific Claim and Comments on Part III:  
(Intervenor completed; attachments not attached to final Decision)**

Attachment or Comment #	Description/Comment
1	Certificate of Service
2	Moorpark Sub-Area Local Capacity Requirements Procurement Plan of Southern California Edison Company Submitted to Energy Division Pursuant to D. 13-02-015
3	Order Granting Review November 28, 2017
4	Petition for Review
5	Petitioner's Reply

**D. CPUC Comments, Disallowances, and Adjustments**

Item	Reason
Substantial Contribution	There is no factual record that would demonstrate CAUSE's contribution to a proceeding and order or decision of the Commission.

<sup>7</sup> This information may be obtained through the State Bar of California's website at <http://members.calbar.ca.gov/fal/MemberSearch/QuickSearch>.



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**PART IV: OPPOSITIONS AND COMMENTS**

**Within 30 days after service of this Claim, Commission Staff or any other party may file a response to the Claim (*see* § 1804(c))**

<b>A. Opposition: Did any party oppose the Claim?</b>	No
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If so:

Party	Reason for Opposition	CPUC Discussion

<b>B. Comment Period: Was the 30-day comment period waived (<i>see</i> Rule 14.6(c)(6))?</b>	No
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If not:

<b>Summary of Joint Comments<sup>8</sup> of California Environmental Justice Alliance and Central Coast Alliance United</b>
The Commission concluded that CAUSE and CEJA made substantial contributions to decisions in this matter. The PD errs in concluding that there a lack of evidence supporting a connection between a judicial review and the substantial contribution. CAUSE’s petition for review was the necessary connection to the decisions to which the substantial contribution was made.
<b>CPUC Discussion</b>
<p>Comments on the proposed decision “shall focus on factual, legal or technical errors in the proposed ... decision and in citing such errors shall make specific references to the record or applicable law” (Rule 14.3(c) of the Commission Rules of Practice and Procedure). We find that CAUSE’s arguments are not supported with references to the record and applicable law.</p> <p>There are several issues with CAUSE’s request to revise the proposed decision and grant its compensation claim:</p> <ol style="list-style-type: none"> <li>1. Comments state that Commission has concluded that CAUSE made substantial contributions to decisions in this matter, and therefore, is entitled to the costs of judicial review. However, the Commission has made no finding that CAUSE has contributed to any decision in this proceeding.</li> <li>2. Even if the Commission found that an intervenor substantially contributed to the decisions, this does not automatically entitle the intervenor to the costs of the judicial review, especially in</li> </ol>

<sup>8</sup> CEJA and CAUSE filed joint comments related to the PD denying compensation to CAUSE. However, these intervenors filed separate notices of intent to claim intervenor compensation, and separate pleadings, including the compensation claims. The Commission issued a separate proposed decision on each claim. Accordingly, in analyzing the comments, we focus on the issues that are specific to this proposed decision and CAUSE.

the situation, where, like here, the Court made no finding regarding Commission's order, ruling, or decision.

3. CAUSE does not deny that the Court of Appeal, at the request of the petitioners, dismissed the case without discussing merits of the Commission's order, ruling or decision, and without making findings on any issues before the Commission.

4. None of the cases referred to by CAUSE allow the Commission to grant a claim for costs of the judicial review where the Court did not rule on nor discuss the merits of our decision. We could not find any such case in the Commission's practice. Decisions granting costs of judicial review have been preceded by the Court's deciding on the merits of the Commission order, ruling, or decision.

Based on the analysis, above, CAUSE's major argument that CAUSE was found to substantially contribute to D.16-05-050 and D.16-12-030, and is, therefore, entitled to the reimbursement of the costs incurred in the course of judicial review, is neither legally nor factually sound.

### **FINDINGS OF FACT**

1. The intervenor compensation claim filed by Central Coast Alliance United for a Sustainable Economy of substantial contribution is not premised on a factual record before the Commission.
2. The Court of Appeal of the State of California, First Appellate District proceeding on the petition for writ of review filed by the Central Coast Alliance United for a Sustainable Economy has not resulted in any substantive outcomes that constitute a substantial contribution to any Commission order, ruling, or decision.
3. The total of reasonable compensation is \$0.

### **CONCLUSION OF LAW**

1. The intervenor compensation claim of Central Coast Alliance United for a Sustainable Economy fails to satisfy all requirements of Pub. Util. Code §§ 1801-1812.

### **ORDER**

1. The intervenor compensation claim filed by Central Coast Alliance United for a Sustainable Economy is denied as set forth.
2. This proceeding is closed.
3. This decision is effective today.

Dated \_\_\_\_\_, at Oxnard, California.

**APPENDIX****Compensation Decision Summary Information**

<b>Compensation Decision:</b>		<b>Modifies Decision?</b>	No
<b>Contribution Decision(s):</b>	Judicial Review		
<b>Proceeding(s):</b>	A1411016		
<b>Author:</b>	ALJ DeAngelis		
<b>Payer(s):</b>	n/a		

**Intervenor Information**

<b>Intervenor</b>	<b>Claim Date</b>	<b>Amount Requested</b>	<b>Amount Awarded</b>	<b>Multiplier?</b>	<b>Reason Change/Disallowance</b>
Central Coast Alliance United for a Sustainable Economy	05/29/18	\$47,447.75	\$0.00	No	Assertions of substantial contributions are not supported by the record; lack of substantial contribution

**Advocate Information**

<b>First Name</b>	<b>Last Name</b>	<b>Type</b>	<b>Intervenor</b>	<b>Hourly Fee Requested</b>	<b>Year Hourly Fee Requested</b>	<b>Hourly Fee Adopted</b>
Shana	Lazerow	Attorney	Central Coast Alliance United for a Sustainable Economy	\$650	2016	Not adopted
Shana	Lazerow	Attorney	Central Coast Alliance United for a Sustainable Economy	\$650	2017	Not adopted
Shana	Lazerow	Attorney	Central Coast Alliance United for a Sustainable Economy	\$650	2018	Not adopted
Gladys	Limon	Attorney	Central Coast Alliance United for a Sustainable Economy	\$600	2016	Not adopted
Gladys	Limon	Attorney	Central Coast Alliance United for a Sustainable Economy	\$600	2017	Not adopted

**(END OF APPENDIX)**